IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NOs. 1879/2006, 1880/2006, 1881/2006, 1882/2006, 1883/2006, 1884/2006, 1885/2006, 1886/2006, 1887/2006, 1888/2006, 1889/2006, 1890/2006, 1891/2006, 1892/2006, 1893/2006, 1894/2006, 1895/2006, 1896/2006, 1897/2006, 1898/2006, 1899/2006, 1900/2006, 1901/2006, 1902/2006, 1903/2006, 1904/2006, 1905/2006, 1906/2006, 1907/2006, 1908/2006, 1909/2006, 2153/2006, 2154/2006, and 2155 OF 2006.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
FEBRUARY 22, 2007.

Heard Shri Dastane, learned counsel for the petitioner – Bank, learned AGPs for respondents No. 1 & 2 and Shri Jagdale, learned counsel for Respondent No.3.

The challenge is to the appellate order passed by the Appellate authority under Section 7(7) of Payment of Gratuity Act. The said authority is Respondent No.2. Respondent No.1 is competent authority appointed under the Payment of Gratuity Act, 1972 under Section 7(4) thereof. Respondent No.3 is admittedly an employee who is entitled to gratuity from the petitioner – Bank.

Shri Dastane, learned counsel has contended that the authority below has mechanically passed a common order in all 34 matters and while so doing, has not taken into account individual charactersticks of each claim. He contends that because of this non application of mind, in some cases the employees have received less gratuity though according to the petitioner – Bank they are entitled to receive more amount. In some cases employees have been ordered to be paid more amount as gratuity though as per the petitioner – Bank they are entitled to less amount. He has also pointed out the grievance of similar nature in some matters. He further states that while filing appeal under Section 7(7) of Payment of Gratuity Act, 1972 (hereinafter referred to as the Act), the Bank has deposited admitted amount of gratuity.

Shri Jagdale, learned counsel for respondent No.3 – employee states that the order passed by Respondent No.1 – Controlling Authority is proper and there is no miscarriage of justice on account of joint order. However, he accepts that in some cases according to the Bank, the employees are entitled to receive

more amount as gratuity while Controlling Authority has ordered less amount.

During the arguments, Shri Dastane, learned counsel has pointed out that the employer – Bank has deposited amount of gratuity payable to each employee according to it i.e. admitted amount with Respondent No. 2. Both advocates also state that the matter was last considered by this Court and the Court had called upon the parties to find out whether grant of 6% interest will meet the ends of justice.

Shri Jagdale, learned counsel has today pointed out that as per notification dated 1.10.1987, said interest rate is stipulated to be 10%. However, he agrees that if Bank undertakes fresh scrutiny and the amount of difference is worked out and paid to employees within stipulated time, the employees will be satisfied with the payment of 6% interest.

In these circumstances, it is apparent that there are no malafides on the part of the petitioner – Bank in not paying gratuity full or otherwise, to its employees. The dispute appears to be genuine and bonafide. In the

circumstances, I permit Respondent No.3 – employee to withdraw the amount of gratuity deposited by the petitioner with Respondent No.2. The dispute in relation to balance amount be worked out by respective Respondent No.3 and the petitioner within a period of two months from today with the assistance of their respective advocates. If any more amount is found to be payable to the employees, the Bank shall arrange to pay that amount to respective employees within a further period of one month thereafter.

It is made clear that Bank shall pay interest at 6% on entire amount from the date on which the gratuity amount became payable till it deposited the amount with Respondent No.2. The parties agree to this arrangement. In view of this, it is made clear that the impugned orders shall not come in the way of parties in implementing this arrangement.

Respondent No.2 is directed to make arrangement to pay the admitted amount to employees within a period of four weeks from today.

Writ Petitions are disposed of accordingly. However, in the circumstances

of the case, there shall be no order as to costs.

JUDGE

*GS.